

withdrawable accounts in savings and loan or similar associations).

(6) In the case of an estate of a decedent dying before November 14, 1966, moneys deposited in the United States by or for the decedent with any person carrying on the banking business, if the decedent was engaged in business in the United States at the time of his death.

(7) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (d), (i), (j), (l), or (m) of § 20.2105-1, any debt obligation, including a bank deposit, the primary obligor of which is—

(i) A United States person (as defined in section 7701(a)(30)), or

(ii) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This paragraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. For purposes of this subparagraph and paragraphs (k), (l), and (m) of § 20.2105-1, a debt obligation on which there are two or more primary obligors shall be apportioned among such obligors, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligors with respect to the indebtedness. The term “agency or instrumentality,” as used in paragraph (a)(7)(ii) of this section does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this subparagraph.

(8) In the case of an estate of a decedent dying on or after January 1, 1970, except as specifically provided otherwise in paragraph (i) or (l) of § 20.2105-1, deposits with a branch in the United States of a foreign corporation, if the branch is engaged in the commercial banking business, whether or not the decedent was engaged in business in the United States at the time of his death.

(b) *Transfers.* Property of which the decedent has made a transfer taxable under sections 2035 through 2038 is deemed to be situated in the United States if it is determined, under the provisions of paragraph (a) of this section, to be so situated either at the time of the transfer or at the time of the decedent's death. See §§ 20.2035-1 through 20.2038-1.

(c) *Death tax convention.* It should be noted that the situs rules described in this section may be modified for various purposes under the provisions of an applicable death tax convention with a foreign country.

[T.D. 6296, 23 FR 4529, June 24, 1958; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7296, 38 FR 34195, Dec. 12, 1973; T.D. 7321, 39 FR 29597, Aug. 16, 1974]

§ 20.2105-1 Estates of nonresidents not citizens; property without the United States.

Property of a nonresident who was not a citizen of the United States at the time of his death is considered to be situated outside the United States if it is—

(a)(1) Real property located outside the United States, except to the extent excludable from the entire gross estate wherever situated under § 20.2103-1.

(2) Tangible personal property located outside the United States.

(b) Works of art owned by the decedent if they were—

(1) Imported into the United States solely for exhibition purposes,

(2) Loaned for those purposes to a public gallery or museum, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(3) At the time of the death of the owner, on exhibition, or en route to or from exhibition, in such a public gallery or museum.

(c) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the payment of money, if it is not physically located in the United States.

(d) Obligations of the United States issued before March 1, 1941, even though physically located in the United States, if the decedent was not

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engaged in business in the United States at the time of his death.

(e) Except as specifically provided otherwise in this section or in § 20.2104-1, intangible personal property the written evidence of which is not treated as being the property itself, if it is not issued by or enforceable against a resident of the United States or a domestic corporation or governmental unit.

(f) Shares of stock issued by a corporation which is not a domestic corporation, regardless of the location of the certificates.

(g) Amounts receivable as insurance on the decedent's life.

(h) In the case of an estate of a decedent dying before November 14, 1966, moneys deposited in the United States by or for the decedent with any person carrying on the banking business, if the decedent was not engaged in business in the United States at the time of his death.

(i) In the case of an estate of a decedent dying on or after November 14, 1966, and before January 1, 1976, any amount deposited in the United States which is described in section 861(c) (relating to certain bank deposits, withdrawable accounts, and amounts held by an insurance company under an agreement to pay interest), if any interest thereon, were such interest received by the decedent at the time of his death, would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(A) (relating to interest on amounts described in section 861(c) which is not effectively connected with the conduct of a trade or business within the United States) and the regulations thereunder. If such interest would be treated by reason of those provisions as income from sources without the United States only in part, the amount described in section 861(c) shall be considered situated outside the United States in the same proportion as the part of the interest which would be treated as income from sources without the United States bears to the total amount of the interest. This paragraph applies whether or not the decedent was engaged in business in the United States at the time of his death, and, except with respect to

amounts described in section 861(c)(3) (relating to amounts held by an insurance company under an agreement to pay interest), whether or not the deposit or other amount is in fact interest bearing.

(j) In the case of an estate of a decedent dying on or after November 14, 1966, deposits with a branch outside of the United States of a domestic corporation or domestic partnership, if the branch is engaged in the commercial banking business. This paragraph applies whether or not the decedent was engaged in business in the United States at the time of his death, and whether or not the deposits, upon withdrawal, are payable in currency of the United States.

(k) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (a)(8) of § 20.2104-1 with respect to estates of decedents dying on or after January 1, 1970, any debt obligation, including a bank deposit, the primary obligor of which is neither—

(1) A United States person (as defined in section 7701(a)(30)), nor

(2) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This paragraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors. The term "agency or instrumentality," as used in subparagraph (2) of this paragraph, does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this paragraph.

(l) In the case of an estate of a decedent dying on or after November 14, 1966, any debt obligation to the extent that the primary obligor on the debt obligation is a domestic corporation, if any interest thereon, were the interest received from such obligor by the decedent at the time of his death, would be

treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(B) (relating to interest received from a domestic corporation less than 20 percent of whose gross income for a 3-year period was derived from sources within the United States) and the regulations thereunder. For such purposes the 3-year period referred to in section 861(a)(1)(B) is the period of 3 years ending with the close of the domestic corporation's last taxable year terminating before the decedent's death. This paragraph applies whether or not (1) the obligation is in fact interest bearing, (2) the written evidence of the debt obligation is treated as being the property itself, or (3) the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors.

(m)(1) In the case of an estate of a decedent dying after December 31, 1972, except as otherwise provided in paragraph (m)(2) of this section any debt obligation to the extent that the primary obligor on the debt obligation is a domestic corporation or domestic partnership, if any interest thereon, were the interest received from such obligor by the decedent at the time of his death, would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(G) (relating to interest received on certain debt obligations with respect to which elections have been made under section 4912(c)) and the regulations thereunder. This paragraph applies whether or not (i) the obligation is in fact interest bearing, (ii) the written evidence of the debt obligation is treated as being the property itself, or (iii) the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors.

(2) In the case of an estate of a decedent dying before January 1, 1974, this paragraph does not apply to any debt obligation of a foreign corporation assumed by a domestic corporation which is treated under section 4912(c)(2) as

issued by such domestic corporation during 1973.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6684, 28 FR 11410, Oct. 24, 1963; T.D. 7296, 38 FR 34196, Dec. 12, 1973; T.D. 7321, 39 FR 29597, Aug. 16, 1974]

§ 20.2106-1 Estates of nonresidents not citizens; taxable estate; deductions in general.

(a) The taxable estate of a nonresident who was not a citizen of the United States at the time of his death is determined by adding the value of that part of his gross estate which, at the time of his death, is situated in the United States and, in the case of an estate to which section 2107 (relating to expatriation to avoid tax) applies, any amounts includible in his gross estate under section 2107(b), and then subtracting from the sum thereof the total amount of the following deductions:

(1) The deductions allowed in the case of estates of decedents who were citizens or residents of the United States under sections 2053 and 2054 (see §§ 20.2053-1 through 20.2053-9 and § 20.2054-1) for expenses, indebtedness and taxes, and for losses, to the extent provided in § 20.2106-2.

(2) A deduction computed in the same manner as the one allowed under section 2055 (see §§ 20.2055-1 through 20.2055-5) for charitable, etc., transfers, except—

(i) That the deduction is allowed only for transfers to corporations and associations created or organized in the United States, and to trustees for use within the United States, and

(ii) That the provisions contained in paragraph (c)(2) of § 20.2055-2 relating to termination of a power to consume are not applicable.

(3) Subject to the special rules set forth at § 20.2056A-1(c), the amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056. Thus, if the surviving spouse of the decedent is a citizen of the United States at the time of the decedent's death, a marital deduction is allowed with respect to the estate of the decedent if all other applicable requirements of section 2056 are satisfied. If the surviving spouse of the decedent is